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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,692	07/07/2000	Reiner Kraft	ARC9-1999-0220	8100
23334	7590	11/05/2003	EXAMINER	
FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487			ENG, DAVID Y	
		ART UNIT		PAPER NUMBER
		2155		
DATE MAILED: 11/05/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/611,692	KRAFT ET AL.
	Examiner	Art Unit
	DAVID Y. ENG	2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 October 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .	6) <input type="checkbox"/> Other: _____ .

In response to the restriction requirement, Applicants elect Group 1, claims 1-19, without traverse, for examination. Non-elect claims 20-39 have been cancelled. The active claims are 1-19.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is not clear what is sent to the client. See the last four lines.

The last line of claim 2 is not understood. Further, the determining step is not understood. It is not clear how the determining the availability of one or more network resources is related to the timing of download and counts, etc. How does the determining step would allow the system to download information more efficiently with limited resources? Other claims have similar defects. See claims 9, 11, 12 and 18 for example.

Scope of the claims is not clear. The claims merely recite steps for exchanging information between a proxy server and a client. It is not clear what the method steps as a whole try to accomplish. It is not clear what the novelty is. Further, dependent claims recite steps such as accessing information, comparing the obtained information and checking, etc. However, no further steps are recited for using the information obtained by the comparing or the checking.

Functional relationship between the method steps is not clear. See the entire set of independent claim 2 for example.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumm (USP 5,768,528) in view of Miller (USP 5,878,228).

See at least the abstract, Figure 6 and columns 1-2 in Stumm. Stumm teaches a system having a file server and a client computer and applications installed therein for downloading files from the server to the client computer in response to file requests. Schedules of download are downloaded from the server to the clients. The schedules include entries such as time to start a download of the file, a time to complete the download of the file, size of the files, etc. Stumm did not state whether the availability of network resources is considered in scheduling. Miller also teaches downloading of files from a server to a client via network or Internet. Miller further teaches scheduling of download requests such that resources for downloading are available when files are downloaded as scheduled (abstract, and lines 11-28 of column 11). From the teaching of Miller, it would have been obvious to a person of ordinary skill in the art to constantly update schedules of downloads in accordance with resource availability.

As to the dependent claims, no statement can be made as to whether Stumm or Miller teaches the claimed steps because the steps as recited are unrelated to scheduling or downloading. Further, it would have been obvious to a

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person of ordinary skill in the art to obtain enough information such that
downloading can be scheduled more efficiently.



DAVID Y. ENG
PRIMARY EXAMINER